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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of: Dominic BERTA et al.	)	
Serial No.: 10/577,270	)	Art Unit: 1796
Filed: April 26, 2006	)	Examiner: J. S. Lenihan
For: POLYPROPYLENE COMPOSITION	)	

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RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF UNDER 37 C.F.R. §41.37

Sir:

This in response to the Notification of Non-Compliant Appeal Brief having a mailing date of December 2, 2009 (herein referred to as, "the Notice"). The one-month period to respond is set to expire on January 2, 2010. As such, this response is timely filed.

After calling Mr. Timothy Cole to inquire about the substance of the Notice, it is Applicant's understanding that the Notice at issue was sent to amend the typographical error in the previously filed brief from "[i]ndependent claim 1" to "[i]ndependent claim 14" on page 4 of the brief. Applicant submits herein replacement pages 4-7 from the brief correcting the typographical error. Accordingly, Applicant believes the objection raised in the Notice has been obviated.

Applicant respectfully believes no fee is due with this submission. However, if a fee is due, please charge such to Deposit Account No. 08-2336.

Respectfully submitted,

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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. 571-273-8300) on December 18, 2009.

Jolene A. Outten
Type or printed name of person signing this certificate

_____
Signature

Summary of the Claimed Subject Matter

In independent claim 14, Applicant is currently claiming a propylene polymer composition comprising components:

a) from 50% to 90% by weight of a propylene homopolymer or a propylene copolymer containing up to 5% by mol of derived units of C_2-C_{20} alpha-olefins, comprising:

(i) a polydispersity index greater than 3;

(ii) a melt flow rate, as measured at 230°C under a load of 2.16 kg, greater than 1 dg/min; and

(iii) a fraction soluble in xylene at 25°C greater than >1%

b) from 5% to 25% by weight a copolymer of ethylene and one or more derived units of C_4-C_{20} alpha-olefins comprising:

(i) a content of ethylene derived units higher than 50% by mol and lower than 92% by mol;

(ii) an intrinsic viscosity higher than 1.2 dL/g and lower than 6 dL/g;

(iii) a density ranging from 0.850 to 0.890 g/cm^3; and

(iv) a crystallinity content, expressed as an enthalpy of fusion, lower than 62 J/g

c) from 5% to 25% by weight of a copolymer of propylene and ethylene comprising:

(i) a content of propylene derived units higher than 50% by mol and lower than 92% by mol;

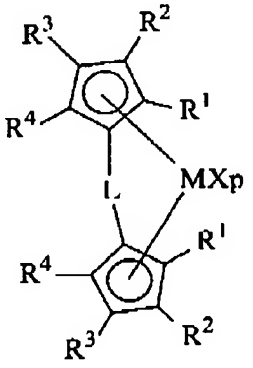
(ii) an intrinsic viscosity higher than 2 dL/g and lower than 6 dL/g;

(iii) a density ranging from 0.850 to 0.890 g/cm^3;

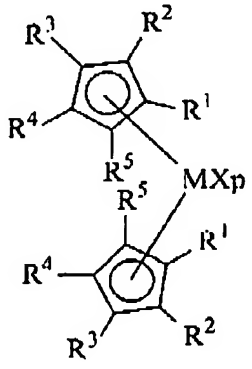
(iv) a value of a product of reactivity ratios r1xr2 lower than 2; and

(v) a crystallinity content, expressed as an enthalpy of fusion, lower than 45 J/g

wherein a weight ratio between component b) and the sum of component b) and component c) is equal to or higher than 0.5 and less than or equal to 0.9, and wherein component c) is obtained by a process comprising at least one metallocene compound of formula (I) or (II):



(I)



(II)

wherein

M is a transition metal belonging to group 4, 5 or to the lanthanide or actinide groups of the Periodic Table of Elements;

X, equal to or different from each other, are monoanionic sigma ligands selected from the group consisting of hydrogen, halogen, R^6, OR^6, $OCOR^6$, SR^6, NR^6_2 and PR^6_2, or two X can optionally form a substituted or unsubstituted butadienyl radical or a OR'O group;

R' is a divalent radical selected from C_1-C_{20} alkylidene, C_6-C_{40} arylidene, C_7-C_{40} alkylarylidene and C_7-C_{40} arylalkylidene radicals;

R^6 is a linear or branched, saturated or unsaturated C_1-C_{20} alkyl, C_3-C_{20} cycloalkyl, C_6-C_{20} aryl, C_7-C_{20} alkylaryl or C_7-C_{20} arylalkyl group, and optionally comprise at least one Si or Ge atom;

p is an integer equal to the oxidation state of M minus 2;

L is a divalent bridging group selected from C_1-C_{20} alkylidene, C_3-C_{20} cycloalkylidene, C_6-C_{20} arylidene, C_7-C_{20} alkylarylidene, or C_7-C_{20} arylalkylidene radicals optionally comprising at least one heteroatom belonging to groups 13-17 of the Periodic Table of Elements, and silylidene radicals comprising up to 5 silicon atoms such as $SiMe_2$, $SiPh_2$; and

R^1, R^2, R^3, R^4 and R^5, equal to or different from each other, are hydrogen, halogen, or linear or branched, saturated or unsaturated C_1-C_{20}-alkyl, C_3-C_{20}-cycloalkyl, C_6-C_{20}-aryl, C_7-C_{20}-alkylaryl, or C_7-C_{20}-arylalkyl radicals, optionally comprising at least one heteroatom belonging to groups 13-17 of the Periodic Table of Elements; or two adjacent R^1, R^2, R^3, R^4 and R^5 form at

least one substituted or unsubstituted 3-7 membered ring optionally comprising at least one heteroatom belonging to groups 13-17 of the Periodic Table of Elements.

See page 1, line 26 - page 2, line 22, and page 6, line 14 - page 8, line 2 in Applicant's specification.

Grounds of Rejection to be Reviewed on Appeal

Whether claims 14-27 are unpatentable under 35 U.S.C. §103(a) over Pelliconi, et al. (WO 03/051984) in view of Winter, et al. (U.S. Patent 5,145,819).

Whether claim 26 is indefinite under 35 U.S.C. 112, 2nd paragraph.

Argument

Rejection of Claims 14-27 Under 35 U.S.C. §103(a) to Pelliconi, et al. (WO 03/051984) in view of Winter, et al. (U.S. Patent 5,145,819)

Claims 14-27:

With respect to the currently appealed rejection of claims 14-27 under 35 U.S.C. §103(a) to WO 03/051984 (herein referred to as, "Pelliconi, et al.") in view of U.S. Patent 5,145,819 (herein referred to as, "Winter, et al."), Applicant responds as follows.

First and foremost, as outlined in Applicant's previous response, Applicant is currently claiming propylene polymer compositions comprising, in part, a specific propylene homopolymer